IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2245 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE J.N.BHATT
and
Hon'ble MR.JUSTICE AKSHAY H.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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UNION OF INDIA

Versus

SARVANKHAN ISMAILKHAN TURK

Appearance:
MRS VASAVDATTA BHATT for Petitioner No. 1-3
MR PH PATHAK for Respondent No. 1

CORAM : MR.JUSTICE J.N.BHATT
and
MR.JUSTICE AKSHAY H.MEHTA

Date of decision: 29/04/2002

ORAL JUDGEMENT

(Per : MR.JUSTICE J.N.BHATT)

Rule, service of which is waived by learned advocate

Mr.PH Pathak for the respondent. Upon joint request, the matter is taken up for final hearing today.

In view of the order passed by a Division Bench of this Court (Coram:D.M.Darmadhikari, CJ as he then was and D.A.Mehta, J.), the impugned order in part, to the extent of granting 50 per cent backwages, is to be heard as notice is issued for admission of petition on the backwages awarded. In short, the only question which we are confronted with in this writ petition is with regard to the direction of award of backwages and what should be the percentage of backwages.

At the time of submissions, learned advocate Mr.Pathak for the respondent has very fairly submitted that the order awarding 50 per cent backwages may be quashed and set aside as, under instructions, he is authorized to make a statement for not pressing the claim for backwages in the peculiar facts and circumstances of the case. Obviously, therefore, no further consideration is warranted. Upon concession made by the learned advocate for the respondent, the part of the order under challenge before us awarding 50 per cent backwages shall stand quashed and set aside. To that extent, this petition shall stand allowed. Accordingly, rule is made absolute to that extent with no order as to costs.

Before parting, we may observe that the respondent is out of job since long. Therefore, the petitioner authority shall pass order immediately for reinstatement and permit him to work, failing which it will be open for the respondent to pursue appropriate remedy.

(J.N.Bhatt, J.)

(Akshay H. Mehta, J)
(vjn)